

UNITED STATES DISTRICT COURT
THE NORTHERN DISTRICT OF NEW YORK

BRIAN and CATHERINE McELROY,

VS.

NO. 1:01-CV-1130 (LEK/DRH)

DR. MARVIN KIM.

JUDGMENT DISMISSING ACTION BY REASON OF SETTLEMENT

This Court has been advised by counsel that this action has been settled, or is in the process of being settled. Counsel of record have also advised this Court that no infant or incompetent is a party to this action. Accordingly, pursuant to N.D.N.Y.L.R. 68.2 (a), it is hereby

ORDERED that:

- 1) The above captioned case is **DISMISSED**, in its entirety, **without prejudice** to re-opening, upon the filing of a motion to reopen said action. The motion must be filed within **60 days** of the date of the signing of this order. Notification by any party to the Court that the settlement was not consummated shall be presented in writing;
- 2) The dismissal of the above action shall be considered **with prejudice** on the 61 day, after the date of the signing of this order, if a motion to re-open the case is not filed by the 60 day after the above referenced signing date.
- 3) Upon the completion of settlement, the attorneys of record are directed to exchange general releases and to **FILE** a Stipulation of Discontinuance with the Court; and
- 4) The Clerk shall serve, by regular mail, copies of this Judgment upon the attorneys for the parties appearing in this action.

IT IS SO ORDERED.

NOVEMBER 01, 2005


Lawrence E. Kahn
U.S. District Judge